

Serial No. 10/720,707



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Applicants: Henry Daniell et al.

Examiner: David Fox

Serial No.: 10/720,707

Confirmation No. 5370

Filed: 11/24/2003

Art Unit 1638

For: GENETIC ENGINEERING OF
PLANT CHLOROPLASTS

Commissioner for Patents

P. O. Box 1450

Alexandria, Virginia 22313-1450

MAIL STOP AF AFTER FINAL

**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING REJECTION
OVER A "PRIOR" PATENT**

Sir:

The owner, Auburn University, of 100 percent interest in the instant application hereby disclaims except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration dates of the full statutory term prior Patent Nos. 5,932,479; and 6,680,426 as the term of said prior patents is defined in 35 U.S.C. 154 and 173, and as the term of said prior patents is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patents are commonly owned. This agreement runs with any patent granted on the instant application and is being upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patents, "as the term of said prior patents is presently shortened by any terminal disclaimer," in the event that said prior patents later:

Expire for failure to pay a maintenance fee;

are held unenforceable;

are found invalid by a court of competent jurisdiction;

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are statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;

Has all claims canceled by a reexamination certificate;

Are reissued; or

are in any manner terminated prior to the expiration of their full statutory term as presently shortened by any terminal disclaimer.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

The undersigned is the attorney or agent of record. Our check for \$65 is enclosed to cover the required fee.

Respectfully submitted,



Timothy H. Van Dyke

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CERTIFICATE OF MAILING

I hereby certify that this paper is being deposited with the United States Postal Service with first-class postage affixed thereto on the date indicated below and is addressed to: Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

Timothy Van Dyke

Name of person mailing paper



Signature

5-30-06

Date